

STATE OF MICHIGAN  
MACOMB COUNTY CIRCUIT COURT

WANDA KING,

Plaintiff,

Case No. 2013-1529-CK

vs.

QUICK CREDIT CORPORATION,

Defendant.

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OPINION AND ORDER

Defendant has moved for summary disposition pursuant to MCR 2.116(C)(1) and (7). Plaintiff has filed a response and requests that the motion be denied.

*Factual and Procedural History*

This lawsuit stems from a loan transaction between the parties. On or about May 24, 2012, Plaintiff contacted Defendant in South Carolina to obtain a short-term loan. At that time, Plaintiff provided a South Carolina address and phone number. Plaintiff ultimately obtained a loan for \$362.28, as memorialized by a security agreement and note (“Loan Docs”). In addition, Plaintiff executed an arbitration agreement (“Arbitration Agreement”) as required by the Loan Docs. While Plaintiff made some payments under the Loan Docs she ultimately defaulted on her obligations.

In an effort to collect the balance owed under the Loan Docs, Defendant contacted Plaintiff via letter and phone. Although Plaintiff had moved to Michigan, she continued to utilize her South Carolina phone number. In addition, Defendant allegedly contacted Plaintiff’s son and friend in an effort to collect the debt.

On April 4, 2013, Plaintiff filed her complaint in this matter against Defendant asserting claims for: 1) Violation of the Michigan Collection Practices Act (Count I), 2) Intentional Infliction of Emotional Distress (Count II), and 3) Invasion of Privacy (Count III). On November 26, 2013, Defendant filed its instant motion for summary disposition in lieu of filing an answer. On February 10, 2014, the Court held a hearing in connection with the motion and took the matter under advisement. The Court has reviewed the pleadings and arguments submitted by the parties and is now prepared to render its decision.

#### *Standard of Review*

In reviewing a motion for summary disposition brought under MCR 2.116(C)(1), the court considers consider the pleadings and documentary evidence submitted by the parties in the light most favorable to the nonmoving party. MCR 2.116(G)(5). *WH Froh, Inc v Domanski*, 252 Mich App 220, 225-226; 651 NW2d 470 (2002). The plaintiff bears the burden of establishing jurisdiction over a defendant, but need only make a prima facie showing of jurisdiction to defeat a motion for summary disposition. *Id.*

MCR 2.116(C)(7) permits summary disposition where the claim is barred because of immunity granted by law, among other things. In reviewing a motion under MCR 2.116(C)(7), the Court accepts as true the plaintiff's well-pleaded allegations, construing them in the plaintiff's favor. *Hanley v Mazda Motor Corp*, 239 Mich App 596, 600; 609 NW2d 203 (2000). The Court must consider affidavits, pleadings, depositions, admissions, and documentary evidence filed or submitted by the parties when determining whether a genuine issue of material fact exists. *Id.* Where a material factual dispute exists such that factual development could provide a basis for recovery, summary disposition is inappropriate. *Kent v Alpine Valley Ski Area, Inc*, 240 Mich

App 731, 736; 613 NW2d 383 (2000). Where no material facts are in dispute, whether the claim is barred is a question of law. *Id.*

### *Arguments and Analysis*

In support of its motion, Defendant contends that this Court does not have jurisdiction over it, and therefore does not have jurisdiction in this case. In response, Plaintiff asserts that the Court has jurisdiction over Defendant under MCL 600.715(2).

A state court may exercise limited personal jurisdiction over a foreign corporation if both parts of a two-step test are met. *Aaronson v Lindsay & Hauer Intern Ltd*, 235 Mich App 259; 262 597 NW2d 227 (1999). First, the court looks to the state’s long-arm statute to determine if any the relationships described therein are present. *Id.*; see also MCL 600.715. Second, the court must consider if imposing its jurisdiction over the foreign entity would violate due process. *Aaronson, supra* at 264. To satisfy due process, a foreign defendant need only “have certain minimum contacts with [the forum state] it such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Id.* citing *Int’l Shoe Co v Washington*, 326 US 310; 66 S Ct 154; 90 L Ed 95 (1945). Provided minimum contacts are found, the case must also arise out of the state contacts. *Aaronson, supra* at 267. Lastly, the state court must be a convenient forum in which to resolve the matter. *Id.* at 268. While it may not be overly burdensome on defendant to litigate in the foreign forum, ‘the defendant has no constitutional entitlement to the best forum.’ *Id.* citing *World–Wide Volkswagen Corp v Woodson*, 444 US 286, 297; 100 S Ct 559; 62 L Ed 2d 490 (1980).

The Court first looks to the state’s long-arm statute to determine if jurisdiction exists. Under MCL 600.715(2), “[t]he doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort” constitutes a sufficient basis for limited personal

jurisdiction.” Plaintiff’s tort claims allege that Defendants sent letters to Michigan addresses and made phone calls to Michigan phone numbers and that those actions rose to a level to maintain claims of intentional infliction of emotional distress and invasion of privacy. The Court is satisfied that if proven, Defendant’s actions establish a sufficient relationship under MCL 600.715(2).

Having found a relationship under the long-arm statute, the Court must now determine whether subjecting Defendant to its jurisdiction violates due process. Whether sufficient minimum contacts exist between a nonresident defendant and Michigan to support exercising limited personal jurisdiction is determinable by a three-part test. First, the defendant must have purposefully availed itself of the privilege of conducting activities in Michigan, thus invoking the benefits and protections of this state’s laws. Second, the cause of action must arise from the defendant’s activities in the state. Third, the defendant’s activities must be so substantially connected with Michigan to make the exercise of jurisdiction over the defendant reasonable. *Moore v. McFarland*, 187 Mich App 214, 218, 466 NW2d 309 (1991).

Here, Defendant’s contacts with Michigan are limited to an unknown number of phone calls for the purpose of collecting the debt in question and following those phone calls up with at least one letter. The Michigan Court of Appeals and federal courts have consistently held that mere allegations of phone calls and letters fail to rise to the level of purposeful availment and minimum contacts. *See Jones v Williams*, 172 Mich App 167; 431 NW2d 419 (1988); *Moore v McFarland*, 187 Mich App 214; 466 NW2d 309 (1990); *Brady v Burt*, 979 F Supp 524, 529-530 (ED Mich, 1997). Based on those cases, and the Defendant’s limited contacts with this state, the Court is convinced that that Plaintiff has failed to meet its burden. Consequently, Defendant’s motion must be granted.

In addition, Defendant has requested that the Court award it the attorney's fees and costs it has incurred in this matter. While the Court is satisfied that Defendant is entitled to summary disposition, it is not persuaded that Defendant is entitled to attorney fees and/or costs in this matter. Consequently, Defendant's request is denied.

*Conclusion*

Based on the foregoing, the Court is convinced that personal jurisdiction in the State of Michigan, in this Circuit Court, is improper under the law. Consequently, Defendant's motion for dismissal under MCR 2.116(C)(1) is GRANTED. Defendant's request for attorney fees and costs is DENIED. The Court states this Opinion and Order resolves all pending matters, and closes the case. MCR 2.602(A)(3).

IT IS SO ORDERED.

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/s/ John C. Foster  
JOHN C. FOSTER, Circuit Judge

Dated: February 13, 2014

JCF/sr

Cc: *via e-mail only*  
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